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Paper No. 6

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Walter J. Kelly et al. :
Application No. 09/717,767 :
Filed: November 21, 2000 :
Attorney Docket No. 5709-159 :

This is in response to the petition under 37 CFR 1.47(a), filed December 27, 2001 (certificate of mailing October 22, 2001).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.


As to item (1), petitioner has not provided sufficient evidence that a copy of the application papers was sent or given to the non-signing inventor. Petitioner must show proof that a copy of the application papers (specification, claims and drawings) was sent or given to the non-signing inventor for review. Rule 47 applicant has failed to show or provide proof that the nonsigning inventor has refused to sign the declaration, after having been presented with a copy of the

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